IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

Crl.MC.No. 192 of 2007()

CC.837/2005 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

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PETITIONER:

SIJU, S/O. NARAYANAN,
AGED 24 YEARS,
KARASSERY HOUSE,
AYANNOOR,
CHITTARIKKARA VILLAGE,
KASARACODE DISTRICT.

BY ADV. SRI.M.J.SANTHOSH

RESPONDENTS:

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
IGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 192 OF 2007

Dated this the 23rd day of January, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.420 read with Sec.34 of the IPC. He is the 5th accused. Anticipatory bail was granted in favour of the petitioner. The petitioner appeared before the learned Magistrate in compliance with the directions. Later, on 4/12/06 the petitioner could not appear before the learned Magistrate. An application was filed to excuse the abscene of the petitioner. The learned Magistrate rejected the said application and issued a non-bailable warrant of arrest to procure the presence of the petitioner.

2. The petitioner apprehends that if he appears and applies for bail before the learned Magistrate, the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. The petitioner claims to have satisfactory reasons to justify his failure to appear on 4/12/06.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge